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| 10/579,689 | 03/05/2007 | Rene' Amherd | RTC-17657 | 9694 |
| 40854 | 7590 | 08/07/2009 | EXAMINER | |
| RANKIN, HILL & CLARK LLP | | | BONK, TERESA | |
| 38210 Glenn Avenue | | | ART UNIT | PAPER NUMBER |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/579,689 | AMHERD, RENE' | |
| | Examiner | Art Unit | |
| | Teresa M. Bonk | 3725 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 08 May 2009.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-7 and 9-16 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-7 and 9-16 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

| | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ . |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ . | 6) <input type="checkbox"/> Other: _____ . |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3, 4, 9, 10, 14, and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Ryan (US Patent 5,309,751). Ryan discloses a roller holder unit with rollers (62) for use with an pneumatically operated pressing tool with a piston- cylinder unit (14/70) with which the clamping jaws are connected to a fork-like receiver by way of a retaining bolt, wherein the rollers roll on the clamping jaws of a clamping pincer (48/50) whilst the clamping pincer is moved by the piston-cylinder unit, wherein the pressing is accomplished in that the clamping jaws at the rear are pressed apart by the rollers, the roller holder unit comprising: a bearing block (72); and, at least one lateral retaining plate (22) arranged thereon in which two cylindrical rollers are held secured in a freely rotatable manner, wherein the bearing block is provided with arcuate sliding bearing surface (76, Figure 9) for each roller, which in its shape corresponds to the roll surface and thus to the outer diameter of the cylindrical rollers (Column 3, lines 33-43).

With regards to claim 3, Ryan also discloses wherein the sliding bearing surfaces are mirror-symmetric, wherein the deepest location with respect to the bearing block is located between the periphery of the bearing block and its center (Figure 9).

With regards to claim 4, Ryan also discloses wherein the bearing block (72) is fastened on a piston rod (70) of the piston-cylinder unit (14).

With regards to claim 9, Ryan also discloses wherein the bearing block and the sliding bearing surfaces are of one piece (Figure 2).

With regards to claim 10, Ryan also discloses wherein the bearing block, the sliding bearing surfaces and retaining plates are of one piece (Figure 3).

With regards to claim 14, Ryan also discloses wherein the rollers are without through-bores (Figure 1).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ryan. Ryan does not explicitly disclose that his rollers are supported on the retaining plate through the use of pins, however it would have been obvious to one having ordinary skill in the art, at the time of the claimed invention, to have used pins to rotatably secure the rollers since the examiner takes official notice that such construction is well known in the art as a simple and cost effective securing means.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ryan in view of Orain (US Patent 4,936,133). Ryan discloses the invention substantially as claimed except for

further including a lubrication groove in the sliding bearing surfaces. Orain is relied upon to teach that having grooves (3) improves the lubrication of the smooth bearing contact between trunnions (bearing block) and the rollers during operation (Column 3, lines 39-48). Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a groove on the bearing surfaces in order to improve lubrication.

Claims 6, 7, and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ryan in view of Eckert (Pub. No.: US 2003/0089360). Ryan discloses the invention substantially as claimed except for wherein a surface of the sliding bearing surfaces and the surface of the rollers is coated or hardened so that it has a low friction with respect to the rollers and wherein the rollers include a surface consisting of steel. Eckert is relied upon to teach that manufacturing a tool where rollers are used to open jaws such that the rollers and/or their contact surfaces are made of steel and/or coated with a material to lower friction is known in the art (paragraphs 0053-0055). Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the particular material and/or coating for the rollers or sliding surfaces in order to extend service life and for ease of operation.

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ryan in view of Rothfuss et al. (US Patent 3,851,285). Ryan discloses the invention substantially as claimed except for wherein the sliding bearing surface includes a surface of Teflon. Rothfuss et al. is relied upon to teach a tool wherein the sliding bearing surface includes a surface of Teflon (Column 3, lines 3-7). Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a Teflon surface in Ryan's sliding bearing surface

since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use.

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ryan in view of Kamishiro et al. (JP 61118574A). Ryan discloses the invention substantially as claimed except for wherein the bearing block is formed from a ceramic material. Kamishiro et al. is relied upon to teach a bearing block formed from a ceramic material (Abstract). Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide Ryan's bearing block to be formed from a ceramic material because it provides "excellent wear resistance" (Abstract).

Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ryan in view of Cadena (US Patent 6,393,885). Ryan discloses the invention substantially as claimed except for wherein the bearing block is provided with a sliding bearing surface for each roller formed in the bearing block as a cylindrical cut-out. Cadena is relied upon to teach a rolling tool having rollers (102) and a bearing block (110) with sliding bearing surfaces (112/114) formed in the bearing block as a cylindrical cut-out (Figure 6). Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the bearing surfaces with cylindrical cut-outs because applying a known technique to a known device ready for improvement yields predictable results such as the rollers move more easily.

Response to Arguments

The claim amendments submitted on May 8, 2009 address the claim objections and 112 second paragraph rejections set forth in the Office Action mailed February 27, 2009; and therefore, have been withdrawn.

Applicant's arguments filed May 8, 2009 have been fully considered but they are not persuasive.

With regards to Applicant's arguments that the Ryan reference fails to disclose claimed subject matter of claims 1 and 16, the Examiner maintains that the Ryan reference discloses a roller holder unit considered to be reference element 10, as seen in Figure 1; clamping jaws considered to be dies 48 and 50 which engage for crimping [Column 2, lines 66-67]; rollers 62 roll on the clamping jaws of a clamping pincer via links 60 carried by slide member 40 [see movement from Figure 1 to Figure 2]; the bearing block 72 is provided with an arcuate sliding bearing surface 76 [as seen in Figure9] which in its shape corresponds to the roll surface and this to the outer diameter of the cylindrical roller [Column 3, lines 33-43 and Column 4, lines 12-15]; at least one lateral retaining plate considered to be reference element 22 arranged thereon in which two cylindrical rollers are held secured in a freely rotatable manner, as seen in Figure 3.

It is additionally noted that the Applicant states on page 9 of their remarks that "Generally, this roller holder unit is disposed between and maintained between a piston rod 52 and a pair of rollers 2." The Examiner maintains this statement is not on point because these parameters are not included in the current claim language.

With regards to claim 10, Applicant appears to argue this claim as if the bearing block, sliding surfaces and retaining plate are of the *same* piece; however this is not on point since the

claim only requires the elements to be “of one piece.” Therefore, the Examiner maintains that the Ryan reference discloses the bearing block of one piece 72, the sliding bearing surfaces of one piece 76 and retaining plate of on piece 22 are of one piece.

With regards to claim 14, the Examiner maintains that although the Ryan reference discloses that rollers 62 are “journaled,” Figures 1 and 2 show the face of the rollers with no through-bores.

With regards to 103 rejections, Applicant appears to argue the secondary references individually and/or cite that they are nonanalogous art.

In response to applicant's arguments against the references individually one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

In response to applicant's argument of nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992).

With respect to claim 5, the Orain reference is relied upon to teach a lubrication groove in a roller bearing surface.

With regards to the Eckert reference, it is reasonably pertinent to the particular problem of increasing the longevity of bearing surfaces on roller hardware.

With respect to claim 12, the Rothfuss reference is relied upon to teach a sliding bearing surface to include a surface of Teflon.

With respect to claim 13, the Kamishiro reference is relied upon to teach a bearing block made from a ceramic material.

With respect to claim 15, the Cadena reference is relied upon to teach a particular shape of a bearing block.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to TERESA BONK whose telephone number is (571)272-1901. The examiner can normally be reached on Monday-Friday 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dana Ross can be reached on 571-272-4480. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Dana Ross/
Supervisory Patent Examiner, Art Unit 3725

Teresa M. Bonk
Examiner
Art Unit 3725